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7 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the First Amended Accusation
Against:

11 KENT HAYWOOD WILSON
12 3539 Rosales Court
Santa Maria, California 93455

13 Physical Therapist License No. PT 22185,
14 Respondent.
15

Case No. 1D 2003 63316

OAH No: L 2005 050387

**FIRST AMENDED
ACCUSATION**

16 Complainant alleges:

17 **PARTIES**

18 1. Steven K. Hartzell (Complainant) brings this Accusation solely in his
19 official capacity as the Executive Officer of the Physical Therapy Board of California,
20 Department of Consumer Affairs ("Board".)

21 2. On or about December 18, 1996, the Board issued Physical Therapist
22 License Number PT 22185 to Kent Hayward Wilson (Respondent). This license was in full force
23 and effect at all times relevant to the charges brought herein and will expire on May 31, 2006,
24 unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the
27
28

1 following laws and regulations.¹

2 4. Section 2609 of the Code states:

3 "The board shall issue, suspend, and revoke licenses and approvals to practice
4 physical therapy as provided in this chapter [chapter 5.7, commencing with section 2600]."

5 5. Section 2660 of the Code provides, in relevant part:

6 "The board may, after the conduct of appropriate proceedings under the
7 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose
8 probationary conditions upon any license, certificate, or approval issued under this chapter for
9 unprofessional conduct that includes, but is not limited to, one or any combination of the
10 following causes:

11 "...

12 "(d) Conviction of a crime which substantially relates to the qualifications,
13 functions, or duties of a physical therapist or physical therapy assistant. The record of conviction
14 or a certified copy thereof shall be conclusive evidence of that conviction.

15 "...

16 "(i) Conviction of a violation of any of the provisions of this chapter or of the
17 State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting
18 in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of
19 the State Medical Practice Act."

20 "...

21 "(l) The commission of any fraudulent, dishonest, or corrupt act which is
22 substantially related to the qualifications, functions, or duties of a physical therapist or physical
23 therapy assistant. . . ."

24 6. Section 2661 of the Code states:

25 "A plea or verdict of guilty or a conviction following a plea of nolo contendere
26

27 1. Unless otherwise referenced, all Code sections refer to the Business and Professions
28 Code.

1 made to a charge of a felony or of any offense which substantially relates to the qualifications,
2 functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this
3 article. The board may order the license suspended or revoked, or may decline to issue a license,
4 when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
5 or when an order granting probation is made suspending the imposition of sentence, irrespective
6 of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw
7 his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
8 dismissing the accusation, information, or indictment.”

9 7. California Code of Regulations, Title 16, section 1399.20, states:

10 “For the purposes of denial, suspension or revocation of a license, pursuant to
11 Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be
12 substantially related to the qualifications, functions or duties of a person holding a license under
13 the Physical Therapy Practice Act if to a substantial degree it evidences present or potential
14 unfitness of a person to perform the functions authorized by the license or approval in a manner
15 consistent with the public health, safety or welfare. Such crimes or acts shall include but not be
16 limited to the following:

17 “(a) Violating or attempting to violate, directly or indirectly, or assisting in or
18 abetting the violation of, or conspiring to violate any provision or term of the Physical
19 Therapy Practice Act. . . .”

20 8. Section 2234 of the Code states, in part:

21 "The Division of Medical Quality shall take action against any licensee who is
22 charged with unprofessional conduct. In addition to other provisions of this article,
23 unprofessional conduct includes, but is not limited to, the following:

24 "(a) Violating or attempting to violate, directly or indirectly, assisting in or
25 abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5,
26 the Medical Practice Act].

27 “ . . .

28 "(e) The commission of any act involving dishonesty or corruption which is

1 substantially related to the qualifications, functions, or duties of a physician and surgeon.

2 "(f) Any action or conduct which would have warranted the denial of a certificate."

3 9. Section 2239 of the Code states, in relevant part:

4 "(a) The use or prescribing for or administering to himself or herself, of any
5 controlled substance; or the use of any of the dangerous drugs specified in Section 4022,
6 or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or
7 injurious to the licensee, or to any other person or to the public, or to the extent that such
8 use impairs the ability of the licensee to practice medicine safely or more than one
9 misdemeanor or any felony involving the use, consumption, or self-administration of any
10 of the substances referred to in this section, or any combination thereof, constitutes
11 unprofessional conduct. The record of the conviction is conclusive evidence of such
12 unprofessional conduct.

13 **COST RECOVERY**

14 10. Section 2661.5, subdivision (a) of the Code states:

15 "In any order issued in resolution of a disciplinary proceeding before the board, the
16 board may request the administrative law judge to direct any licensee found guilty of
17 unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of
18 the investigation and prosecution of the case."

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(CONVICTION OF CRIMES)**

21 11. Respondent is subject to disciplinary action under sections 2660,
22 subdivision (d), and 2661 of the Code, and California Code of Regulations, Title 16, section
23 1399.20, subdivision (a), in that he was convicted of crimes substantially related to the
24 qualifications, functions, or duties of a physical therapist. The circumstances are as follows:

25 **October 10, 2002 Conviction**

26 12. On July 22, 2002, Atwater police officers served a search warrant at
27 Respondent's residence. The officers found counterfeit payroll checks and a computer,
28 printer and scanner that was used to make the checks.

1 13. On July 23, 2002, Respondent surrendered to police and was arrested.
2 Respondent admitted his handwritten notes, which were instructions for making the check,
3 were on one of the counterfeit checks.

4 14. A complaint was filed on July 25, 2002 charging Respondent with forgery,
5 possession of a blank check with the intent to defraud, and possession of a completed
6 check with the intent to defraud.

7 15. On October 10, 2002, in a criminal proceeding entitled *People v. Kent*
8 *Haywood Wilson*, in Merced County Superior Court, Case No. AF33805, Respondent was
9 convicted by a plea of nolo contendere to the crime of forgery, in violation of Penal Code
10 section 470 (a misdemeanor), and possession of a blank check with the intent to defraud in
11 violation of Penal Code section 475(b) (a misdemeanor.) Respondent was sentenced to a
12 three year term of probation was ordered to serve 60 days in county jail.

13 **February 7, 2001 Conviction**

14 16. On December 13, 2001, California Highway Patrol issued citation no.
15 MP64140, charging Respondent in possession of less than one ounce of marijuana while
16 driving a motor vehicle in violation of Vehicle Code section 23222(b) (Count 1), driving
17 with an expired registration in violation of Vehicle Code section 4000(a) (Count 2), and
18 driving without proof of insurance in violation of Vehicle Code section 16028(a) (Count
19 3.) Respondent was directed to appear in superior court on January 17, 2001.

20 17. On or about January 9, 2001, a complaint was filed in *People v. Kent*
21 *Haywood Wilson*, in Santa Cruz County Superior Court, Santa Cruz County, Case No.
22 W02161. The complaint was based on charges listed in the citation.

23 18. On January 17, 2001, Respondent failed to appear in Santa Cruz Superior
24 Court. The complaint was amended with an additional charge for failing to pay a fine in
25 violation of Vehicle Code section 40508(a) (Count 4.)

26 19. On February 7, 2001, Respondent pleaded guilty to Count 1 for possession
27 of less than one ounce of marijuana while driving a motor vehicle (Vehicle Code §
28 23222(b)), and to Count 3 for driving without proof of insurance (Vehicle Code §

1 16028(a).) With respect to Count 1, Respondent was ordered to pay a fine of \$190.
2 Respondent was also ordered to submit proof of registration and insurance. The case was
3 continued to April 25, 2001.

4 20. On April 25, 2001, Respondent failed to appear. Respondent was charged
5 with failure to appear, a violation of Penal Code section 1320(a) (Count 5.)

6 21. On August 30, 2002, the Court dismissed Counts 2, 4 and 5. Respondent
7 was ordered to pay an additional fine of \$250 with regard to count 3.

8 22. On November 7, 2002, Respondent was charged with failure to pay a
9 lawfully imposed fine in violation of Vehicle Code section 40508(b) (count 6) and
10 a bench warrant was issued for his arrest. Bail was set at \$595.

11 23. On August 10, 2004, Respondent paid his fine of \$595.00.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(COMMISSION OF FRAUDULENT, DISHONEST OR CORRUPT ACTS)**

14 24. Respondent is subject to disciplinary action under section 2660, subdivision
15 (l) of the Code in that he committed fraudulent, dishonest or corrupt acts. The circumstances are
16 as follows:

17 25. Complainant incorporates by reference paragraphs 12-15, as if set forth
18 herein.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(POSSESSION AND/OR USE OF A CONTROLLED SUBSTANCE)**

21 26. Respondent is subject to disciplinary action under section 2239, of the
22 Code in that he was in possession of and/or under the influence of a controlled substance. The
23 circumstances are as follows:

24 **Possession on December 13, 2000**

25 27. Complainant incorporates by reference paragraphs 16-23, as if set forth
26 herein.

27 **Possession and/or Use on July 24, 2005**

28 28. On July 24, 2005, Respondent was arrested by the Fresno Police at the

1 home of his ex-wife. Respondent had his three children with him in his car he drove to his
2 ex-wife's home.

3 29. At the time of Respondent's encounter with the Fresno police, Respondent
4 admitted that he had been using methamphetamine for over a year. He had used
5 approximately three hours prior to arriving at his ex-wife's home. Respondent was also
6 driving with a suspended or revoked license. As a result, the vehicle was impounded. An
7 inventory search of the vehicle revealed a crack pipe, two empty cans of alcoholic
8 beverages, and a bag of green leafy substance that appeared to be marijuana.

9 30. On or about July 27, 2005, a ten-count Felony Complaint was filed in
10 Fresno County Superior Court against Respondent in *People v. Kent Haywood Wilson*,
11 Case No. F05905661-5, charging him with Counts 1-3 for child abuse (Penal Code §
12 273a(a)), Count 4 for transportation of a controlled substance to wit: methamphetamine
13 (Penal Code § 11379(a)), Count 5 for transportation of marijuana (Penal Code §
14 11360(a)), Count 6 for driving under the influence of alcohol or drugs - a misdemeanor
15 (Vehicle Code § 23152(a)), Count 7 for being under the influence of a controlled
16 substance - a misdemeanor (Health & Safety Code § 11550(a)), Count 8 for driving when
17 privilege suspended or revoked (Vehicle Code § 14601.1(a); Count 9 for possession of
18 opium pipe, and count 10 for possession of an open container in a motor vehicle (Vehicle
19 Code § 23223(a).) A bench warrant has been issued for Respondent's appearance and for
20 arraignment on the charges.

21 **Possession and/or Use on September 9, 2005**

22 31. On or about September 9, 2005, in Ventura County, Respondent was
23 arrested by the Santa Barbara County Sheriff's Office using or being under the influence
24 of a controlled substance in violation of Health and Safety Code section 11550(a) and for
25 failing to appear in an unrelated matter.

26 **FOURTH CAUSE FOR DISCIPLINE**

27 **(UNPROFESSIONAL CONDUCT)**

28 32. Respondent subject to disciplinary action under section 2234 of the Code in

1 that his conduct in violation of state laws constitute unprofessional conduct. The circumstances
2 are as follows:

3 33. Complainant incorporates by reference paragraphs 9-15, as if fully set forth
4 herein.

5 34. Complainant incorporates by reference paragraphs 16-23, as if fully set
6 forth herein.

7 35. Complainant incorporates by reference paragraphs 28-31, as if fully set
8 forth herein.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters
11 herein alleged, and that following the hearing, the Physical Therapy Board of California issue a
12 decision:

13 1. Revoking or suspending Physical Therapist License Number PT 22185
14 issued to Kent Haywood Wilson;

15 2. Ordering Kent Haywood Wilson to pay the Physical Therapy Board of
16 California the reasonable costs of the investigation and enforcement of this case, pursuant to
17 Business and Professions Code section 2661.5;

18 3. Taking such other and further action as deemed necessary and proper.

19 DATED: September 23, 2005

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22 Original Signed By:
23 STEVEN K. HARTZELL
24 Executive Officer
Physical Therapy Board of California
State of California

25 Complainant

26 Wilson, Kent Amended Accusation2
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